



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA

Steven Lee Adkins Jr.

3556462

(Enter above the full name of the plaintiff  
or plaintiffs in this action).

(Inmate Reg. # of each Plaintiff)

VERSUS

CIVIL ACTION NO. 2:19-cv-00209  
(Number to be assigned by Court)

Warden David Ballard

CO Dempsey

CO Phillips

(Enter above the full name of the defendant  
or defendants in this action)

COMPLAINT

I. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes \_\_\_\_\_

No X

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs:

N/A

Defendants:

N/A

2. Court (if federal court, name the district; if state court, name the county):

N/A

3. Docket Number:

N/A

4. Name of judge to whom case was assigned:

N/A

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

N/A

6. Approximate date of filing lawsuit:

N/A

7. Approximate date of disposition:

N/A

II. Place of Present Confinement: Mt. Olive Correctional Complex

A. Is there a prisoner grievance procedure in this institution?

Yes X No \_\_\_\_\_

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes X No \_\_\_\_\_

C. If your answer is YES:

1. What steps did you take? Grieved to Unit team,  
then to Warden, then Commissioner (ex #1)
2. What was the result? \_\_\_\_\_

D. If your answer is NO, explain why not: \_\_\_\_\_

### III. Parties

(In item A below, place your name and inmate registration number in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff: Steven L. Adkins Jr.

Address: 1 Mountainside Way, Mt. Olive, WV 25185

B. Additional Plaintiff(s) and Address(es): \_\_\_\_\_

N/A

## Statement of Claim

1. July 28<sup>th</sup> 2017 excessive use of Force was used against me, I was subdued while cuffed behind my back, once on the ground Co philips held me down by laying across my legs and Co Dempsey was on my back screaming "Are you done" and strangling me unprofessionally across my throat. I wasn't resisting and answered him that I was done verbally and with head nods, he continued strangling me, further injuring my already injured throat and would've killed me if inmates, including Jake Samples and Keith Lowe hadn't started yelling for him to stop and other employees to stop him, to make him stop etc.
2. I submitted a grievance regarding use of excessive on July 30, 2017 grievance No. 17-M.O.C.C. - Q2-466, and it was denied by W.V. D.O.C. Commissioner. (ex #1)
3. I requested any and all stationary, cameras, video camera's and all other video recording of the Incident be preserved, copied etc (ex #2).
4. Being strangled further injured my throat, bruised and made it sore, couldn't swallow or eat lost weight.

5. I suffered mental and emotional distress.
6. On or around August 5<sup>th</sup>, 2017, I submitted a sick call.
7. I complained on a daily basis for weeks, I was given medicine and Ice packs.

### Involvement

David Ballard was Involved because he is the Correctional officers Supervisor, he is also condoned a pattern and practice of use of force, excessive use of force, and has been found liable in the past as supervisory liability in another use of force case.

CO Dempsey and CO Phillips are who applied excessive use of force against me.

### My Claims are:

- Counts:
1. excessive use of force
  2. Supervisor liability
  3. Emotional and mental distress.

(In item C below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item D for the names, positions, and places of employment of any additional defendants.)

C. Defendant: David Ballard  
~~was~~ employed as: Warden  
at M.O.C.C.

D. Additional defendants: CO Dempsey and CO Phillips  
who were employed at M.O.C.C. at the  
time.

#### IV. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

-Please See attached-

IV. Statement of Claim (continued):

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V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments.  
Cite no cases or statutes.

- Compensatory damages
- Punitive damages
- and any relief this court deems  
Fair and just.

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V. Relief (continued):

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VII. Counsel

- A. If someone other than a lawyer is assisting you in preparing this case, state the person's name:

N/A

- B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action?

Yes \_\_\_\_\_

No ☒

If so, state the name(s) and address(es) of each lawyer contacted:

N/A

If not, state your reasons: \_\_\_\_\_

- C. Have you previously had a lawyer representing you in a civil action in this court?

Yes \_\_\_\_\_

No ☒



If so, state the lawyer's name and address:

Signed this 19<sup>th</sup> day of March, 20 19.

Steve Adkins  
Signature of Plaintiff or Plaintiffs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3-19-19  
(Date)

Steve Adkins  
Signature of Movant/Plaintiff

N/A  
Signature of Attorney  
(if any)